



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

RCH/SPN/HDM/CRH
F. #2018R01309

*271 Cadman Plaza East
Brooklyn, New York 11201*

October 8, 2022

By ECF

The Honorable Brian M. Cogan
United States District Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Thomas Joseph Barrack, et al.
Criminal Docket No. 21-371 (S-1) (BMC)

Dear Judge Cogan:

The government respectfully writes in response to the letter submitted by counsel for Barrack earlier today, requesting that the Court direct the government to disclose its witnesses for Wednesday. As the transcript cited by counsel for Barrack reflects, at the outset of the trial, the parties entered into an agreement to disclose witnesses three days in advance of their testimony, which the government has been complying with throughout the trial without exception. Counsel for Barrack were and are parties to this agreement and were well aware of that agreement when they inquired of the Court on Friday. Pursuant to that agreement, the government advised the defendants of its anticipated witnesses for Tuesday today and will be providing the defendants with their anticipated witnesses for Wednesday tomorrow. The government advised the Court of this pre-existing agreement among the parties on Friday and understood the Court to have endorsed that procedure. See Trial Tr. (“[W]e’ve been giving three-days’ notice. There is an agreement among the parties. We expect the same when it comes time for a defense case, if any. THE COURT: Okay. MR. NITZE: Thank you.”). If the Court wishes to direct the parties to exchange witnesses four days in advance, instead of three days (as the parties agreed), then, of course, both parties should comply.

Respectfully submitted,

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